

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,427

IN THE MATTER OF:

Served March 3, 2015

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|---------------------------------|---|----------------------|
| Application of ZEREYAKOB ASSEFA |) | Case No. AP-2014-139 |
| HAYLEMARIAM, Trading as SHALOM |) | |
| TRANSPORTATION SERVICE, for a |) | |
| Certificate of Authority -- |) | |
| Irregular Route Operations |) | |

This matter is before the Commission on applicant's motion to reduce the civil forfeiture assessed in this proceeding in Order No. 15,131, served October 21, 2014, and to approve an installment payment plan.

Applicant formerly held WMATC Certificate No. 1952. Certificate No. 1952 was revoked on February 26, 2014, in Order No. 14,597.¹ Applicant reapplied for WMATC authority in this proceeding on May 5, 2014. During the course of examining applicant's fitness for WMATC authority after having been revoked, the Commission discovered that applicant had operated for 94 days without authority, mostly in 2014. The Commission assessed a civil forfeiture of \$250 per day, for 94 days of unauthorized operations, or \$23,500, and suspended all but \$3,500 in recognition of applicant's production of inculpatory records and voluntary filing of this application.

The Commission ultimately concluded that upon payment of the forfeiture assessed in this proceeding, the record would support a finding of prospective compliance fitness, subject to a one-year period of probation and subject to the requirement that applicant present his revenue vehicle(s) for inspection and file certain documents within 180 days. Applicant has produced the requisite documents and has approximately two months left to present his vehicle for inspection.

It is against this background that applicant requests further reduction of the net forfeiture to \$1,200 and approval of a 12-month payment plan. Applicant claims that he is "not in a position to pay more." The request is supported by a single payment of \$100, leaving a net forfeiture balance due of \$1,100.

¹ *In re Zereyakob Assefa Haylemariam, t/a Shalom Transp. Serv.*, No. MP-13-146, Order No. 14,597 (Feb. 26, 2014).

In ruling on the motion, we are mindful that the civil forfeiture provision of the Compact serves at least two functions: deterrence of future violations and disgorgement of unjust profits.²

The Commission has partially suspended civil forfeitures in the past where carriers demonstrated they had profited little or not at all from their unauthorized operations.³ The Commission has admitted evidence of a carrier's financial results of operations for the purpose of establishing whether and to what extent a carrier has profited from his misdeeds.⁴ The Commission therefore shall grant respondent an opportunity to produce such evidence before rendering a decision on the motion. Respondent is reminded that he bears the burden of proof on this issue and is cautioned to comply with Rule No. 4 and produce full supporting documentation and/or independent verification of his computations.⁵

At a minimum, applicant shall produce a copy of his 2014 income tax return and copies of his bank statements for May 2014 through February 2015.

THEREFORE, IT IS ORDERED:

1. That applicant shall have 30 days to present evidence of his current financial position and evidence of the financial results of his operations in 2014.

2. That said evidence shall include at a minimum a copy of applicant's 2014 income tax return and copies of his bank statements for May 2014 through February 2015.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.
Executive Director

² *In re Paramed Med. Transp. t/a PARA-MED, Inc.*, No. MP-10-015, Order No. 12,802 at 2 (Apr. 8, 2011); *In re Skyhawk Logistics, Inc.*, No. MP-09-044, Order No. 12,137 at 3 (Sept. 2, 2009).

³ Order No. 12,137 at 4.

⁴ Order No. 12,802 at 3; *In re VGA, Inc.*, No. MP-09-108, Order No. 12,502 at 3 (Aug. 9, 2010); see Order No. 12,137 at 4 (granting request to produce evidence of no profit).

⁵ Order No. 12,802 at 3; Order No. 12,502 at 3; Order No. 12,137 at 4.